REMARKS

This Amendment and the following remarks are intended to fully respond to the non-Final Office Action mailed October 23, 2006. Claims 1, 16 and 25 have been amended. Claims 1-12, 14, 16, 17 and 19-26 are pending in this application, and have also been rejected.

Examiner Interview Summary

Applicants thank Examiner Boyce for the courtesy of a telephone interview on November 20, 2006, requested by the undersigned to discuss the rejection of the current claims under 35 U.S.C. §§ 102 and 103. During the interview, Applicants highlighted claim amendments to the Examiner and expressed their desire to further prosecution. However, no agreement was made regarding rejected claim patentability.

Claim Rejections – 35 U.S.C. § 102

Claims 1-4, 6, 7, 9-12, 16, 17 and 25 are rejected under 35 U.S.C. §102(b) as being anticipated by Hirsch et al (WO 97/24682) (hereinafter "*Hirsch*"). Claims 1, 16 and 25 have been amended and Applicants respectfully submit that the amendment overcomes this rejection and adds no new matter.

Amended Claim 1 recites a method of scheduling a plurality of patients and a plurality of employees in a health care environment, wherein at least two patients receive treatment during a predetermined time period comprising, *inter alia,* for each patient, evaluating patient care requirements, wherein the patient care requirements correspond to actual employee time requirements necessary to satisfy the patient care requirements and evaluating employee time requirements necessary to satisfy non-patient care activities.

Amended Claim 16 recites a method of scheduling employees in a health care environment comprising, *inter alia,* calculating scheduling efficiency information relating to a generated schedule of patients and employees based on the patient profiles and employee profiles, wherein the calculation rounds up an amount of employees scheduled when a

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determination results in a fractional number of employees needed to address the needs of the plurality of patients profiles.

Amended Claim 25 recites a graphical user interface for a computer system, the graphical user interface having a display module for displaying information, said graphical user interface comprising, *inter alia*, a calculation display area for displaying calculated values within each interval, the calculated values relating to temporary or permanent patient care requirements and employee capabilities for each interval based on the employee's direct care, indirect care and non-patient care tasks during the time interval, whereby the calculation display area provides efficiency information.

Hirsch discloses a system which having dedicated management and operational software for the OR suites (including PACU, ICU, etc.) that adaptively and intelligently schedules and optimizes the utilization of the OR suite resources (including resource time, operating rooms, staff, inventory, etc.) and minimizes the costs involved in running the OR suites. (*See Hirsch* page 7, lines 26-30.) The system of *Hirsch* includes an optimization engine conducts a two-phase optimal scheduling. The first phase is a feasibility check which allows for an immediate confirmation that each surgeon's cases are booked and all relevant preferences are met successfully. The second phase is an optimal global optimization which is activated 48 hours or 72 hours (depending on the hospital's policy) before the day of surgery. The optimal global optimization is done by associating a cost function to every feasible schedule and then trying to find a schedule with minimal cost. The result of the global optimization is a bona fide, mathematically provable optimal schedule(s) according to the chosen criteria of the hospital. At first, the resulting schedules produced drive the staff scheduling and inventory control modules of the system. (*See Hirsch* page 11, line 28 through page 12 line 9.) *Hirsch* also discloses that average times for a surgeon to perform a procedure, and average setup and cleanup times are stored and displayed to the user. (*See Hirsch* page 16, lines 21-28.)

In contrast with the claimed invention, *Hirsch* fails to disclose evaluating patient care requirements, wherein the patient care requirements correspond to actual employee time requirements necessary to satisfy the patient care requirements and evaluating employee time

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requirements necessary to satisfy non-patient care activities, as recited in Claim 1. While *Hirsch* may consider average procedure times for a surgeon and average setup and cleanup times for a certain procedure in a operating room, *Hirsch* fails to disclose considering non-patient care requirements for an employee when scheduling employees because *Hirsch* is merely directed to scheduling and optimizing the utilization of OR suite resources. (*See Hirsch* page 7, lines 25-30.) All scheduling by *Hirsch* is directed only to one or more operating rooms. The invention of Claim 1 is more expansive than *Hirsch* because the invention considers all treatment for a patient and evaluates patient and non-patient duties for an employee to give a more complete evaluation when scheduling employees. Accordingly, independent Claim 1 patentably distinguishes the present invention over the cited prior art, and Applicant respectfully requests withdrawal of this rejection of Claim 1. Dependent Claims 2-12 and 14 are also allowable at least for the reasons described above regarding independent Claim 1, and by virtue of their dependency upon independent Claim 1. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 2-12 and 14.

Claim 25 includes limitations similar to the limitations mentioned above with respect to Claim 1, and is patentably distinguishable from the cited prior art for the reasons mentioned above with respect to Claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of Claim 25. Dependent Claim 26 is also allowable at least for the reasons described above regarding independent Claim 25, and by virtue of its dependency upon independent Claim 25.

In contrast with the claimed invention, *Hirsch* fails to disclose calculating scheduling efficiency information relating to a generated schedule of patients and employees based on the patient profiles and employee profiles, wherein the calculation rounds up an amount of employees scheduled when a determination results in a fractional number of employees needed to address the needs of the plurality of patients profiles, as recited in Claim 16. *Hirsch* fails to contemplate such a limitation. Accordingly, independent Claim 16 patentably distinguishes the present invention over the cited prior art, and Applicant respectfully requests withdrawal of this rejection of Claim 16. Dependent Claim 17 is also allowable at least for the reasons described above regarding independent Claim 16, and by virtue of its dependency upon independent Claim

16. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claim 17.

Claim Rejections – 35 U.S.C. § 103

Claims 5, 8, 14, 19-24 and 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hirsch* in view of Rosse (USPN 6,640,212) (hereinafter "*Rosse*"). Claims 1, 19 and 25 have been amended and Applicants respectfully submit that the amendment overcomes this rejection and adds no new matter.

Claims 5, 8 and 14 depend directly or indirectly from claim 1, and are allowable over *Hirsch* for the reasons mentioned above with respect to claim 1. Claim 26 depends from claim 1, and is allowable over *Hirsch* for the reasons mentioned above with respect to claim 25. In addition, the Office Action acknowledges that *Hirsch* fails to disclose a scheduling module that rounds up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees. In order to overcome this deficiency in *Hirsch*, the Office Action relies on *Rosse*. However, the combination of *Hirsch* and *Rosse* fails to teach or suggest all the recitations of claims 1, 19 and 25.

Claim 19 recites a system for scheduling employees in a health care environment comprising, *inter alia*, a scheduling module that schedules patients and employees according to patient needs, wherein the scheduling module rounds up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients.

Rosse discloses a standardized information management system for use in long-term residence facilities that continually collects and manages all information related to both the clients and staff of the facility. (*See Rosse* column 2, lines 23-26.) The system of *Rosse* accounts for non-client duties associated with a staff member. (*See Rosse* column 8, lines 11-15.) Rosse also discloses a Master Scheduler process 106 that manages a work scheduling database 108 that contains the staff work schedules. (*See Rosse* column 7, lines 1-3.) The Master Scheduler process 106 requires timely information about when staff is available to

perform the direct-care duties. (*See Rosse* column 7, lines 3-4.) The Master Scheduler process 106 provides organization and design assistance for setting up staffing requirements routine and daily staff scheduling, identifying shortages, and staffing summaries. (*See Rosse* column 7, lines 6-9.)

In contrast with the claimed invention, the combination *Hirsch* and *Rosse* fails to teach or suggest evaluating patient care requirements, wherein the patient care requirements correspond to actual employee time requirements necessary to satisfy the patient care requirements and evaluating employee time requirements necessary to satisfy non-patient care activities, as recited in Claim 1. *Rosse* explicitly states that the Master scheduler process 106 only considers direct-care duties, and fails to contemplate non-patient care activities that an employee may be required to complete when scheduling employees. (*See Rosse* column 7, lines 3-4.) Accordingly, independent Claim 1 patentably distinguishes the present invention over the cited prior art, and Applicant respectfully requests withdrawal of this rejection of Claim 1. Dependent Claims 5, 8 and 14 are also allowable at least for the reasons described above regarding independent Claim 1, and by virtue of their dependency upon independent Claim 1. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 5, 8 and 14.

Claim 25 includes limitations similar to the limitations mentioned above with respect to Claim 1, and is patentably distinguishable from the cited prior art for the reasons mentioned above with respect to Claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of Claim 25. Dependent Claim 26 is also allowable at least for the reasons described above regarding independent Claim 25, and by virtue of its dependency upon independent Claim 25. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claim 26.

In contrast with the claimed invention, the combination *Hirsch* and *Rosse* fails to teach or suggest a scheduling module that schedules patients and employees according to patient needs, wherein the scheduling module rounds up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to

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address the needs of the plurality of patients, as recited in Claim 19. As mentioned above with respect to Claim 16, *Hirsch* fails to contemplate such a limitation. While *Rosse* may identify staff shortages, *Rosse* fails to rounds up an amount of employees scheduled when a determination by the scheduling module results in a fractional number of employees needed to address the needs of the plurality of patients. Therefore, a user using the system of *Rosse* must perform the rounding operation, which is inefficient as compared to the invention of Claim 19 because *Rosse* merely identifies shortage and fails to provide scheduling assistance. Accordingly, independent Claim 19 patentably distinguishes the present invention over the cited prior art, and Applicant respectfully requests withdrawal of this rejection of Claim 19. Dependent Claims 20-24 are also allowable at least for the reasons described above regarding independent Claim 19, and by virtue of their dependency upon independent Claim 19. Accordingly, Applicants respectfully request withdrawal of this rejection of dependent Claims 20-24.

CONCLUSION

It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

Respectfully submitted,

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Date: February 5, 2007

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